FISCAL NOTE

Bill #: SB0185 **Title:** Stock investment in qualifying business without tax consequence

Primary Sponsor: Depratu, B **Status:** As Introduced

Sponsor signature Date Chuck Swysgood, Budget Director Date

Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:		
General Fund		
Revenue:		
General Fund		
Net Impact on General Fund Balance:	$0	$0

☐ Significant Local Gov. Impact ☐ Technical Concerns

☐ Included in the Executive Budget ☐ Significant Long-Term Impacts

☐ Dedicated Revenue Form Attached ☐ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. This proposal provides that a qualifying exchange of stock or stock options in a corporation, or the sale of stock with the cash transferred within 180 days, used to provide capital to a qualifying new or expanding business is exempt from the state individual income tax (this bill does not apply to the corporation license tax). Under current federal law, usually there is no recognition of a capital gain in an *exchange* of stock for stock in a new business. Because Montana ties to the federal definition of income, there would also be no recognition of gain from these types of exchanges for state tax purposes. A *sale* of stock prior to transferring the receipts from that sale to a new business would constitute a taxable event for federal purposes, with any gain from the sale subject to federal income tax; but under the provisions of this bill those gains would be exempt for state purposes. Taxpayers choosing to capitalize a new business will do so in a manner that allows an exemption from both federal and state tax; i.e., they will chose to exchange stock, rather than sell it first. Consequently, there is no fiscal impact from this proposal from events that provide for the initial capitalization of new businesses via the exchange of stock.
2. A qualifying business must be 1) a "new" or "expanding" business; that 2) operates primarily in the state (i.e., 80% of its employees are located in the state); that 3) adds 5 full-time employees; and 4) pays those new employees a "livable wage" for a period of not less than 18 months from the time the exchange of stock takes place. A livable wage is defined as an hourly wage equal to 175% of the federal poverty index for a family of two for the prior year divided by 2080.

3. If after five years the new business continues to meet the employee and location qualifications described in assumption 2, and has had at least $10,000 in sales or rental business-related income in at least 2 of the previous 5 years, the taxable basis of the original investment in the new business is the value of the stock at the time of transfer to the new business. That is, there would be a “step up” in basis for taxation purposes from the original basis in the stock to the value of the stock at the time of the exchange in stock for stock of the new business. The ultimate revenue consequence to the state general fund would be a reduction in revenue equal to the effective tax rate applied to the capital gains at the time the stock is eventually sold times the difference in value of the stock between the time of original purchase and the time of exchange with the new business.
4. This proposal, to the extent that qualifying exchanges occur, will reduce revenue to the state general fund. However, because the revenue impacts do not occur for at least five years (see assumptions #1 and #3), there is no impact from this proposal in the 2005 biennium. There will be a reduction in revenue in future biennia; however, the department has no means of providing an accurate estimate of the fiscal impact that might occur that far into the future.
5. There are no additional administrative expenses associated with this bill.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
No impact.

LONG-RANGE IMPACTS:
Revenue to the state general fund would be reduced in the long-term by an underterminable amount.